

April 3, 2009

Via Email (mrp@waterboards.ca.gov)

Mr. Bruce Wolfe, Executive Officer
California Regional Water Quality Control Board,
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

SUBJECT: Municipal Regional Stormwater Permit Revised Tentative Order Comments

Dear Mr. Wolfe:

This letter and detailed attachment provides the City of Fremont's comments on the Municipal Regional Permit (MRP) Revised Tentative Order issued on February 11, 2009. Please distribute a copy of these comments to the Regional Water Quality Control Board (Water Board) members and include the comments in the record of this administrative proceeding.

The City acknowledges the positive changes incorporated in the Revised Tentative Order including the elimination of prescriptive requirements in the areas of street sweeping and street sweeper purchases, trash reduction, and construction and commercial inspection requirements. The City also appreciates the deletion of the requirement to treat runoff from road reconstruction projects within the existing footprint and the elimination of impervious surface data collection for small projects.

The City has concerns however, that some problematic items identified in the December 4, 2007 Tentative Order have still not been addressed in the Revised Tentative Order. We are also alarmed at some of the new requirements added in the Revised Tentative Order. These increased requirements come at a time of shrinking municipal budgets and declining resources. Issuing a permit that ignores fiscal reality will likely put many jurisdictions in a position of non-compliance. In order to be most effective with diminishing resources, local governments must focus their efforts on retaining effective core stormwater management programs and limit new initiatives to high priority items such as trash reduction. It is essential that additional changes be made to the Revised Tentative Order to eliminate requirements that are either costly without providing a commensurate improvement in water quality, or that are fiscally unfeasible for jurisdictions to undertake at this time.

The paragraphs below highlight major areas of concern while the attachment provides details on specific requested changes.

- 1) **Increased monitoring** – The Revised Tentative Order contains substantially expanded monitoring requirements which are expected to cost Alameda County jurisdictions an additional \$1,000,000 per year to comply with. This increase would be passed on to member



agencies and would reduce funding available for other compliance activities. There are many costly requirements related to non-priority pollutants which divert funds unnecessarily. We believe that monitoring should be focused on TMDL pollutants and concur with the monitoring revisions proposed by the Alameda Countywide Clean Water Program.

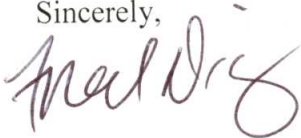
- 2) **Reporting** – The Comments and Responses Summary states that Board staff scaled back the recordkeeping and reporting requirements to what they “absolutely need to measure compliance”; however, the Revised Tentative Order still contains a number of excessive and unproductive reporting requirements. Some examples include: (1) for each construction site inspection, record the inches of rain since the last inspection (Provision C.6.e.ii.(4).(d)); (2) extensive reporting and evaluation requirements on many of the Public Information and Outreach provisions; (3) monthly reporting on planned and unplanned potable water discharges (Provision C.15); (4) a requirement to provide a rationale for each illicit discharge corrective action that will take more than 10 days to complete (C.5.b.ii(2)); and, (5) an unrealistically short timeframe for submitting monitoring data and reports (C.8.h.iii). The attachment contains recommendations for streamlining the reporting.
- 3) **Conditionally Exempt Discharges** – We believe provision C.15 needs some significant revisions and share the four primary concerns cited by the Alameda Countywide Clean Water Program: (1) individual residential car washing has not been included in the list of conditionally exempt discharges; (2) monitoring and reporting is required for discharges from crawl space pumps and footing drains; (3) Permittees are put in the position of managing potable water supply agencies; and (4) onerous monitoring and reporting requirements for sheared fire hydrants. We support the changes recommended by the Alameda Countywide Clean Water Program.
- 4) **5,000 Square Foot Threshold** – Reducing the threshold of regulated projects from 10,000 square feet to 5,000 square feet will result in a disproportionate amount of the implementation costs directed at inspecting and enforcing compliance of small treatment devices. Once these devices are installed, they would need to be inspected and maintained in perpetuity; thus, the cost of inspection and enforcement would continue to increase dramatically over time. It is inefficient and wasteful to dedicate this level of public resources toward the maintenance of small devices that would be of questionable usefulness even if they were rigorously maintained. There is also an excessive administrative burden associated with executing operations and maintenance agreements for each of these devices. We are requesting the threshold remain at 10,000 square feet.
- 5) **Water Board Executive Officer Approval** – The City supports and promotes the use of landscape based treatment systems; however, the requirement of Executive Officer approval for all projects that use vault based treatment systems for more than 50% of runoff is unworkable and should be eliminated. This requirement adds a burdensome and unnecessary step in the project review process and puts municipalities at risk of not meeting their obligations to review and process the permit application under the time limits imposed by State Permit Streamlining Act.

- 6) **Trash Controls** – We understand the importance of reducing the amount of trash entering our creeks and the Bay and appreciate the increased flexibility provided in the revised Tentative Order. In these difficult economic times we are concerned with the installation and maintenance costs associated with required structural controls. In addition, we have concerns regarding the feasibility of attaining hot spot reduction targets in all cases and are requesting more flexible permit language as provided in the attachment.
- 7) **Stormwater Pump Stations** – The current language requires sampling and mitigation of low dissolved oxygen levels even if there is negligible impact on the receiving waters. We believe the monitoring and reporting requirements are more onerous than necessary. This requirement will use resources that could be more effectively deployed on other core water quality programs.

The City believes it is essential that the Revised Tentative Order be further revised as outlined in this comment letter and attachment in order for the City to achieve improved water quality given available resources.

Thank you of your consideration of the City's recommended changes to the Revised Tentative Order.

Sincerely,

A handwritten signature in dark ink, appearing to read "Fred Diaz", written in a cursive style.

Fred Diaz
City Manager

Attachment: Table of Proposed Specific Changes to Revised Tentative Order